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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/747,873 11/13/96 MEGENS

J 53142/908600

EXAMINER

PM82/0327

SHACKELFORD, H

ART UNIT

PAPER NUMBER

3671

DATE MAILED:

03/27/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

08/747,873 11/13/96

Office Action Summary

Application No.

08/747,873

Applicant(s)

MEGENS, JOHANNES H.

Examiner

H. Shackelford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133)

Status

- 1) ☐ Responsive to communication(s) filed on 19 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 13-15 is/are allowed.
- 6) ☐ Claim(s) 1-12, 25-27 is/are rejected.
- 7) ☐ Claim(s) 5 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on 19 December 2000 is: a) ☐ approved b) ☒ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12-19-00
- 17) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other:

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1. The current application must cross-reference the continuation reissue application 09/598,785 in the first sentence of the specification.

2. The information disclosure statement filed 12-18-00 fails to comply with 37 CFR 1.97(c) because it lacks the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered. The owners manual of a dock leveler to Kelley was listed on a form 892 for the purpose of the rejections below.

3. Claims 1-12, 25-27 are rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee.

In claim 1, line 6, the inclusion of the term "substantially," as suggested by the Board of Patent Appeals and Interferences, is considered to an improper broadening of claim 1. It is suggested that the claim language reflect the original language without the term "substantially."

The original language is deemed to be descriptive of the claimed device since it can be interpreted that the arcuate motion of the front edge has both perpendicular and parallel components.

In claims 25-27, the language of "at least one degree", "at least five degrees" and "at least fifteen degrees" is considered to be an improper broadening of this reissue application. The limitations "at least . . . degree(s)" of claims 25-27 includes an open-ended range (which includes 90 degrees, 180 degrees and greater) which is more encompassing than as originally disclosed.

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4. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 12-19-00 are not approved by the examiner. Figures 3 and 5 include element number 11 leading to a horizontal line essentially parallel with the bottom floor of the pit. The lead line appears to be leading to the horizontal portion of the zig-zag of the side wall and not to any portion of the base.

5. The drawings are objected to because element number 11 of figure 2 is pointing to the pit into which the loading bridge is installed and not the base, in which the base is described in the specification as comprising the horizontal part 12 and a part 13. Correction is required.

6. The disclosure is objected to because the specification is replete with grammatical errors, misspellings and is written in a generally awkward manner as pointed out in the original office action of the patent application 07/487,892. The following are examples of further such instances.

In col. 1, the entire eighth paragraph which starts "As the price . . .," is awkward.

In col. 2, lines 24-25, it is unclear what is meant by "the loading bridge is located as a whole on the right spot."

In col. 4, lines 10-12 "the present embodiment is different, because no housing, in which the bag is enclosed, as there is no question anymore of a bag" is awkward.

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The specification (as amended in the supplemental amendment filed 12-19-00) states “[I]nto the housing thus obtained a base 11 is provided, which comprises a substantially horizontal part 12 and a part 13 extending obliquely downward” is awkward and not grammatically correct.

The amended paragraph of the specification as in the supplemental amendment filed 12-19-00, lines 3-4 states “[A]lso the bottom comprises a front wall.” It is unclear as to “the bottom” of what element is being referred.

Again, it is pointed out that these are merely examples and that the specification has numerous such instances, too many to point out individually. **Applicant must go through the entire specification and correct such instances, not just the ones mentioned above.**

7. The amendment filed 12-19-00 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The application, as originally disclosed does not provide support for the newly inserted language in the fourth paragraph of col. 2 (of the supplemental amendment filed 12-19-00), which states that the part 13 extends obliquely at an angle of “about twenty two degrees” and “about fifteen degrees.” Since the written specification is silent as to the desired angles of the incline, but merely describes it as “extending obliquely downward,” the application, as originally filed, it does not provide basis for the specific language of the underlined subject matter. Although drawings can be used to interpret the invention for what it generally shows, it is determined that such specific angles cannot be entered into the

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specification at this time since the specification does not state that the drawings were to scale, and since the drawings are generally the interpretations by the draftsman. The claiming of the angles at this time does not appear to have been possessed by the inventor at the time of filing, since if these angles were pertinent or critical, they would have been at least mentioned in general terms in the application as originally filed.

Applicant is required to cancel the new matter in the reply to this Office action.

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 26-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. For the reasons described in paragraph 6 above, the inclusion of the angles at which the inclined base extends, is considered new matter since the specification, as originally filed does not provide basis for such language. More specifically, there is no basis for "at least five degrees" and "at least fifteen degrees."

10. Claims 25-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The range of "at least one degree" and "at least five degrees" which includes the bottom limit of the range of one degree and five degrees, respectively, cannot be used in the manner intended. Such small angles would not allow the ventilator to be positioned under the base, as applicant claims to be an important feature of the invention. The open-ended ranges of "at least one" "at least five" and "at least fifteen" also encompass an improper operative limit, i.e., eighty-nine degrees. This angle, although considered oblique could not perform as intended, to pivot the planar member.

11 Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble recites a loading bridge with the loading platform recited merely as an intended use. However, the body of the claim contains positive recitations the loading platform, i.e., a recess and a bottom thereof. Consequently, it cannot be determined whether Applicant intends to claim the subcombination of the loading bridge or the loading bridge in combination with the loading platform.

In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the combination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be

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made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination. Applicant's intentions in this regard must be clearly established by the claim language.

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1, 8, 12 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. (Phillips) 3,659,899 in view of the owner's manual of a dock leveler to Kelley dated 5/10/78 (Kelley).

Phillips teaches the recited structure of claims 1 and 12 as claimed with the exception of an inclined base (floor 65). Kelley recommends inclining the floor of the loading dock upwardly and rearwardly toward the rear edge.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incline the floor of the pit, as seen in Kelley, to the floor 65 of Phillips to facilitate drainage of liquids therefrom.

It would also have been an obvious matter of design choice to provide the incline of the base of Phillips and Kelley to at least one degree since it is common knowledge in construction, to

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slope a one quarter inch to every linear foot for draining. The slope of one quarter inch to every foot calculates to just over one degree.

Re claim 8, it would have been obvious to provide a housing in the bottom portion of the recess of Phillips along the side walls thereof to facilitate installation and removal of section 63 and bag 66 from the loading platform.

14. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips in view of Kelley as applied to claims 1, 8, 12 and 25 above, and further in view of Scott.

Phillips and Kelley are discussed above. However, they do not specifically disclose the material of the bag as being made of polyethylene.

Scott teaches in column 5, line 50, that nylon mesh reinforced polyethylene is an appropriate material for an inflatable bladder. Accordingly, it would have been obvious to form the inflatable bag 66 of Phillips from nylon mesh reinforced polyethylene in order to ensure that the inflatable bag would withstand necessary pressures and withstand repeated inflation/deflation cycles.

15. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips in view of Kelley as applied to claims 1, 8, 12 and 25 above, and further in view of AU 588734 (Beer).

Phillips and Kelley are discussed above. However, they do not specifically disclose the material of the bag as being made of PVC.

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Beer teaches, on page 5, that PVC coated polyester fabric is a suitable flexible material for the inflatable 40. Accordingly, it would have been obvious to form the inflatable bag 66 of Phillips from PVC coated fabric in order to provide the necessary strength, flexibility, and gas tightness.

16. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips in view of Kelley as applied to claims 1, 8, 12 and 25 above, and further in view of Smock 3,784,255. (Smock).

Phillips and Kelley are discussed above. Phillips specifically discloses a bellows-type bag (col. 3, lines 57-59). However, a rigid bottom and top are not disclosed.

Smock discloses a bellows-type of inflatable bag with rings 37 which constitute a "rigid bottom and a rigid top." It would have been obvious to substitute the "bellows" or "air spring" of Smock including the rings 37 with the bag of Phillips in order to avoid shifting of the bellows or air spring relative to the section 63. Since the bag of Smock is smaller, it would require less volume of air needed to operate the apparatus and/or reduce the amount of material (and weight and the expense) required for the bag. It is determined that any bellows-type bag can be construed an air spring.

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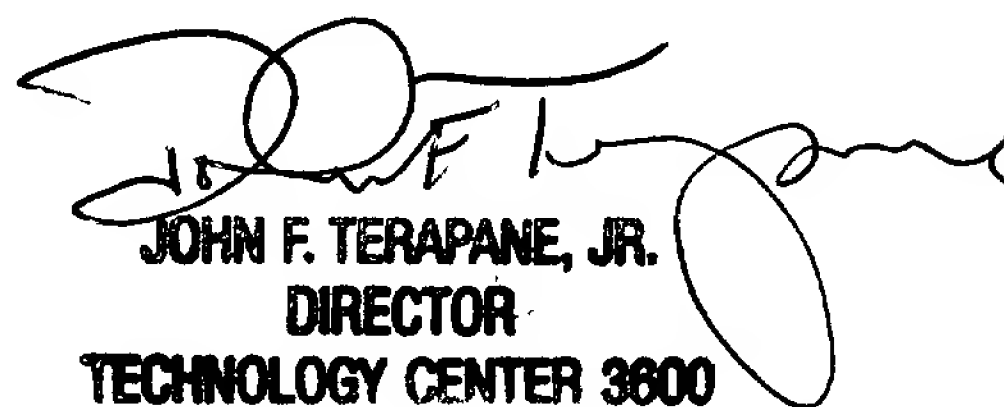
17. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips in view of Kelley as applied to claims 1, 8, 12 and 25 above, and further in view of Pfleger et al. 3,902,213 (Pfleger).

Phillips and Kelley are discussed above. However, a lid as claimed is not specifically disclosed.

Pfleger teaches the use of a convention lid. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the lip 8 of Pfleger to the section 63 of Phillips to provide an element which could be extended in order to support the section 63 on a truck body in a conventional matter (see col. 5, lines 2-25 of Pfleger, for example).

18. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. Claims 13-15 are allowed.


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